

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARL WATKINS,	:	08 Civ. 5891 (RJH)(MHD)
	:	
Plaintiff,	:	
	:	
-against-	:	<b><u>ORDER</u></b>
	:	
DALE ARTUS,	:	
	:	
Defendant.	:	
-----X	:	

On July 22, 2010, Magistrate Judge Frank Maas issued a Report and Recommendation (“Report”) recommending that the Court deny petitioner’s request for a writ of habeas corpus. On August 23, 2010, petitioner mailed his objections to the Report. It does not appear that petitioner filed these objections in a timely manner. For this reason alone, the Court could disregard petitioner’s objections. *See United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). Nonetheless, the Court has reviewed petitioner’s objections to the Report and finds them to be without merit.

The district court adopts a Magistrate Judge’s report and recommendation when no clear error appears on the face of the record. *See Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). However, the court is required to make a *de novo* determination of those portions of a report to which specific objection is made, 28 U.S.C. § 636(b)(1)(C), by reviewing “the Report, the record, applicable legal authorities, along with Plaintiff’s and Defendant’s objections and replies.” *Badhan v. Lab. Corp. of Am.*, 234 F. Supp. 2d 313, 316 (S.D.N.Y. 2002). The court may then accept, reject, or modify in whole or in part recommendations of the Magistrate Judge. *See Nelson*, 618 F. Supp.

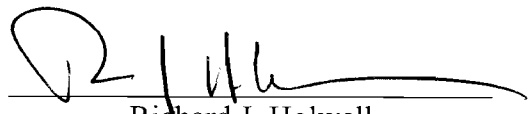
at 1189. “[W]hen a party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.” *Walker v. Vaughan*, 216 F. Supp. 2d 290, 292 (S.D.N.Y. 2002).

Petitioner makes one specific objection to the Report, namely that Magistrate Judge Dolinger did not consider his traverse before issuing the Report. (Pet’r’s Obj. 2.) On August 11, 2010, Magistrate Judge Dolinger issued a clarifying order indicating that petitioner’s traverse was received in his chambers on February 23, 2010 and considered in the drafting of the Report. He further clarified that the traverse was not docketed at that time due to an administrative oversight. As a result, petitioner’s traverse was not docketed until after the Report. The Court therefore finds that Magistrate Judge Dolinger did consider the petitioner’s traverse in drafting the Report, and so petitioner’s argument is without merit.

Petitioner also “object[s] to each and every finding in the Report and Recommendation . . . .” (Pet’r’s Obj. 2.) This objection is the sort of general objection that the Court reviews for clear error. Having carefully considered Magistrate Judge Dolinger’s well researched Report, the Court finds no error and hereby adopts the Report. The Clerk is directed to close this case.

SO ORDERED.

Dated: New York, New York  
December 7, 2010

  
Richard J. Holwell  
United States District Judge